

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 411

(Duly Adopted September 10, 2003)

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE TERMINATION OF WATER SERVICE FOR NONPAYMENT IN FULL OF WATER AND/OR SEWER RENTAL/USAGE CHARGES, INCLUDING PROVISIONS REGARDING NOTIFICATIONS, HEARING RIGHTS, MEDICAL AND HEALTH EMERGENCIES, AND PAYMENT PLANS; AND FOR TERMINATING WATER SERVICE IF BOROUGH EMPLOYEES CANNOT ACCESS A PROPERTY'S WATER METER.

Be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Al-
burtis, Lehigh County, Pennsylvania, as follows:

SECTION 1. Section 133-4(D) of the Code of the Borough of Albur-
tis (relating to water rents—delinquent rent), is hereby deleted and repealed.

SECTION 2. Chapter 133 of the Code of the Borough of Albur-
tis (relating to water), is hereby amended by adding the following Sections to Article IX after existing §
133-18 and before the beginning of Part 2 and § 133-19:

§ 133-18A. Termination and Collection Procedures—In General

A. Delinquent Water or Sewer Charges. In the event that water and/or sanitary sewer service rentals or charges due under the ordinances of the Borough of Albur-
tis for any improved property remain un-
paid after the first day of the second month after they become due, the
Borough Secretary shall commence the procedures set forth in the fol-

lowing sections of this Article to terminate water service to the improved property unless all rentals and charges properly due are paid in full.

B. No Access to Water Meters. In the event that employees of the Borough cannot access the water meter for any improved property served by the Borough's public water system, the Borough Secretary shall commence the procedures set forth in the following sections of this Article to terminate water service to the improved property unless appropriate access is provided.

C. Disconnect/Reconnect Fees. The owner(s) of any improved property disconnected from the Borough's water system shall pay a disconnection fee to the Borough of fifteen dollars (\$15.00). The owner(s) of any improved property disconnected from the Borough's water system who desires to reconnect the property to the Borough's water system shall pay a reconnection fee to the Borough of fifteen dollars (\$15.00).

§ 133-18B. Notifications.

A. Thirty-seven Day Notice to Owner. At least thirty-seven (37) calendar days before terminating water service to an improved property connected to the Borough's water system, the Borough Secretary shall send a written notice to the owner(s) of record of the improved property at the last known address(es) of the owner(s) on the records of the Borough, by first class U.S. mail and also by U.S. certified mail (return receipt requested) or by personal service. The notice shall include a statement that the Borough intends to terminate water service to the improved property, the date on or after which service will be terminated, the reasons for the termination, the actions which must be taken prior to termination in order to avoid termination of service, the hearing rights afforded under § 133-18C, the medical deferral provided under § 133-18D, and, where applicable, the option for an acceptable payment plan under § 133-18E. If a payment plan was granted with respect to an improved property under § 133-18E and payments are not completed strictly in accordance with the terms of the plan, the Borough Secretary shall send another notice under this subsection (A) at least thirty-seven (37) calendar days before termi-

nating water service to the property. The notice provided under this subsection (A) may be combined with any notice required to be made to the owner(s) under subsection (B).

B. Notices under the Utility Service Tenants Rights Act.

Prior to terminating water service to an improved property connected to the Borough's water system where the owner(s) of the property is a "landlord ratepayer" within the meaning of the Utility Service Tenants Rights Act, 68 PA. STAT. ANN. § 399.1 *et seq.*, the Borough Secretary shall provide all of the notices to landlord ratepayers, tenants, and the state or county Department of Health, and comply with all of the other procedures required under that Act.

C. Final Two-day Notice. At least two (2) business days before terminating water service to an improved property connected to the Borough's water system, a Borough employee or agent shall post a termination notice at a conspicuous place on the improved property. The notice shall include a statement that the Borough intends to terminate water service to the improved property, the date on or after which service will be terminated, the reasons for the termination, the actions which must be taken prior to termination in order to avoid termination of service, and the medical deferral provided under § 133-18D.

D. Notice to Human Service Agencies. At least two (2) business days before terminating water service to an improved property connected to the Borough's water system, the Borough Secretary shall notify the Lehigh County Department of Human Services, and, if in existence, Health Department, of the impending termination of water service, so that such Departments and their programs, such as the Office of Children and Youth Services, Office of Mental Health/Mental Retardation, and/or the Office of Aging and Adult Services, may provide assistance. In addition, within two (2) business days after the termination of water service to an improved property, if such property has not been reconnected to the Borough's water system, the Borough Secretary shall notify the Lehigh County Department of Human Services, and, if in existence, Health Department, of the termination of water service to the property. All notices

under this subsection (D) shall be made both by telephone and by fax or e-mail.

E. Codes Enforcement. Within two (2) business days after the termination of water service to an improved property, if such property has not been reconnected to the Borough's water system, the Borough Secretary shall notify the Borough Zoning Officer and codes enforcement official that the property is no longer being served by public water. The Borough Zoning Officer and codes enforcement official shall then determine whether the property may be occupied lawfully under the circumstances, and shall take all appropriate enforcement actions.

F. Other Notices. In addition to the notices set forth in this section, the Borough Secretary shall provide any and all other notices which may be required at the time by federal or state law or regulation prior to the termination of public water service.

§ 133-18C. Hearings.

If a property owner(s) believes that any unpaid charges imposed on a water or sewer bill are incorrect or otherwise wishes to challenge the type or amount of such charges, or if the property owner(s) wishes to challenge any determination by a Borough employee that the property's water meter cannot be accessed by Borough employees, the property owner may request a hearing on the matter before Borough Council. Council will conduct the hearing in accordance with the provisions of the Local Agency Law, 2 PA. CONS. STAT. ch. 1, 5(B), 7(B), and appeals from the decision of Council may be taken to court in accordance with that Law. The property owner(s) must request a hearing by no later than four o'clock PM on the date three (3) business days before the first regular meeting of Borough Council which is least seventeen (17) calendar days after the date the notice under § 133-18B(A) was sent to the owner(s). A request for a hearing is considered to be made when communicated orally in person or by telephone to a Borough employee in the Office of the Borough Secretary, or received in writing at the Office of the Borough Secretary. If a hearing is requested, water service shall not be terminated until

at least fourteen (14) calendar days after the date of mailing of the Council's written decision.

§ 133-18D. Medical Deferral.

If any person residing at an improved property is seriously ill, aged, or a young child, that person's health, safety, or welfare would be jeopardized by the termination of water service to the property, that person is unable physically to relocate to a different dwelling or shelter by the date after which water service may be terminated (as set forth in a notice under § 133-18B), and the Borough Secretary is provided with a written physician's certification of these facts, then water service to the property shall not be terminated until an additional thirty (30) calendar days after the date water service could otherwise have been terminated under this Article. Only one (1) thirty (30) day deferral shall be granted under this section with respect to any given termination proceeding.

§ 133-18E. Payment Plan.

A. Eligibility. If the total amount of any unpaid water and sewer rentals/charges for any improved property exceeds Five Hundred Dollars (\$500.00), the owner(s) of the improved property has not been subject to a payment plan under this section at any time during the two-year period ending on the date of a request for a payment plan under this section, and the owner(s) of the improved property have not defaulted under any payment plan under this section at any time during the five-year period ending on the date of a request for a payment plan under this section, the owner(s) of the improved property may request Council to grant a payment plan for payment of the unpaid rentals/charges. The request must be made by no later than the last regular meeting of Council before the termination of water service.

B. Minimum Payments. A payment plan under this section shall provide that the owner(s) must make monthly payments on or before the first day of each calendar month in a minimum amount equal to the

greater of One Hundred Dollars (\$100.00) or one-sixth (1/6) of the unpaid balance at the time the payment plan begins. In addition, the owner(s) must pay all new bills on or before the date they are due.

C. Presentation to Council. Council shall not grant a payment plan unless the owner(s) provide evidence acceptable to Council of an ability to make monthly payments in accordance with the requirements of subsection (B) and unless the owner(s) acknowledge the amount due and owing.

D. Continuation of Service. If Council grants a payment plan under this section to a property owner(s) with regard to a particular improved property, the Borough shall not terminate water service to that property so long as the owner(s) remains current with respect to all payments under the payment plan and all new bills due after the date of the payment plan. If the owner(s) fails to make any payment under the payment plan in full when due or any payment of a new bill due after the date of the payment plan in full when due, the payment plan shall automatically terminate.

E. Interest and Penalties. Interest and penalties on due and unpaid amounts subject to a payment plan under this section shall continue to accrue until the arrearages are paid.

§ 133-18F. Involuntary Termination of Service.

A. In General. If the situation warranting termination of water service under § 133-18A(A) or (B) with respect to a given improved property has not been corrected during the time provided under this Article, and all procedural requirements of this Article have been satisfied for termination of service, then the Borough Secretary shall direct the Water Department to disconnect the property from the Borough water system and terminate water service to the property. The term “disconnect” includes the action of closing a valve to prevent the flow of water.

B. Emergencies. Notwithstanding anything to the contrary contained in this Article, the Borough may summarily terminate water

service to any improved property when required to prevent or alleviate an emergency or in the case of danger to life or property.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 10th day of September, 2003, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURTIS**

Steven R. Hill, President

Attest:

Melanie Hansen, Secretary

AND NOW, this 10th day of September, 2003, the above Ordinance is hereby
APPROVED.

Russell J. Afflerbach, Mayor